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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,548	10/08/2004	Yoshimi Moriya	0054-0290PUS1	6899
2292 7590 12/31/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
HASAN, SYED Y				
ART UNIT		PAPER NUMBER		
2621				
NOTIFICATION DATE		DELIVERY MODE		
12/31/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

# Office Action Summary

Application No.

10/510,548

Applicant(s)

MORIYA ET AL.

Examiner

SYED Y. HASAN

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 - 20, 29-35, and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) 3-20, 29-35 and 37-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/29/2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Response to Arguments**

1. Applicant's arguments filed on 10/26/2009 regarding claims 1 - 2 have been fully considered but they are not persuasive.

Applicant has not presented a persuasive argument. Applicant has merely reiterated the limitations in claim 1 and argued that they are not being overcome individually. To begin with MPEP 2111 that claims must be given their broadest reasonable interpretations and furthermore applicant cannot show non-obviousness by attacking references individually. Details are provided below.

## 2111 [R-5] Claim Interpretation; Broadest Reasonable Interpretation

### CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” >The Federal Circuit’s *en banc* decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the “broadest reasonable interpretation” standard:

The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must “conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.” 37 CFR 1.75(d)(1).

415 F.3d at 1316, 75 USPQ2d at 1329. See also *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999)

Furthermore applicant cannot show non-obviousness by attacking references individually, where as here the rejections are based on combination of references. *In re Keller*, 208 USPQ 871 (CCPA 1981)

The test for combining references is what the references as a whole would have suggested to one of ordinary skill in the art. *In re Sheckler*, 168 USPQ 716 (CCPA

1971); In re McLaughlin 170 USPQ 209 (CCPA 1971); In re Young 159 USPQ 725 (CCPA 1968)

Specification is not the measure of invention. Therefore, limitations contained therein can not be read into claims for the purpose of avoiding the prior art. In re Spork, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968)

In re page 14 applicant argues regarding thumbnail image which a new addition to the claim. Onuki et al discloses "Thumbnail image generation for successive photography is described hereafter, with reference to FIG. 15. In step S100, a determination is made as to whether the release switch 10 is pressed. If it is not pressed, flow returns to step S100. If the release switch 10 is pressed, the value of j is assigned to variable i as the next photographic frame number in step S101. In step S102, the ith photographic frame is taken. Further, in step S103, the value of i is increased by 1.(fig 15, para 0150) . This overcomes the new limitation added to claim 1 "a thumbnail image generation unit for extracting a representative frame of each scene as a thumbnail image, and the thumbnail image generation unit providing a user input selection from the representative frame or another frame within a predetermined interval from the representative frame".

Response to this new limitation is being provided below.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 10/08/2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because **copies of this document**

**has not been supplied for evaluation.** It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Examiner has received from applicant an NPL Document labeled PCT/JP03/03450 dated August 08, 2004. In this document there is a reference to citation of various documents namely

JP 2001-357008

JP 2002-51287

JP 2002-41541

JP 2001-320693

JP 2001-167099

However there is no evidence of applicant supplying copies of the documents mentioned above in the IDS dated 10/08/2004. Unless copies of these documents are supplied, this objection will remain open.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto (US 2002/0052864) in view of Onuki et al (US 2001/0038719) in view of Papagan et al (US 2002/0059604) and further in view of Hanamoto (US 2002/0019833)

Regarding **claim 1**, Yamamoto discloses a metadata editing apparatus comprising:

a scene division unit for dividing multimedia content containing at least one of moving pictures and audio into a plurality of scenes to generate scene section information metadata indicating a scene start position and a scene end position for each scene obtained as a result of the division (para 0139)

However Yamamoto does not disclose a thumbnail image generation unit for extracting a representative frame of each scene as a thumbnail image, and the thumbnail image generation unit providing a user input selection from the representative frame or another frame within a predetermined interval from the representative frame; a scene description edit unit for performing hierarchical editing of each scene of the

multimedia content based on the scene section information metadata sent from the scene division unit and generating scene structure information metadata describing a hierarchical structure of the multimedia content; and a metadata description unit for integrating the scene section information metadata and the scene structure information metadata and generating metadata describing contents and a structure of the multimedia content in accordance with a predetermined format.

On the other hand Onuki et al teaches a thumbnail image generation unit for extracting a representative frame of each scene as a thumbnail image, and the thumbnail image generation unit providing a user input selection from the representative frame or another frame within a predetermined interval from the representative frame (fig 15, para 0150)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a thumbnail image generation unit for extracting a representative frame of each scene as a thumbnail image, and the thumbnail image generation unit providing a user input selection from the representative frame or another frame within a predetermined interval from the representative frame as taught by Onuki et al in the system of Yamamoto in order to reduce the area of memory occupied by thumbnail images.

The combination of Yamamoto and Onuki et al do not disclose a scene description edit unit for performing hierarchical editing of each scene of the multimedia content based on the scene section information metadata sent from the scene division unit and generating scene structure information metadata describing a hierarchical structure of the multimedia content

On the other hand Papagan et al teaches a scene description edit unit for



performing hierarchical editing of each scene of the multimedia content based on the scene section information metadata sent from the scene division unit and generating scene structure information metadata describing a hierarchical structure of the multimedia content (para 0029)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a scene description edit unit for performing hierarchical editing of each scene of the multimedia content based on the scene section information metadata sent from the scene division unit and generating scene structure information metadata describing a hierarchical structure of the multimedia content as taught by Papagan et al in the combined system of Yamamoto and Onuki et al in order to provide an enhanced multimedia presentation.

The combination of Yamamoto, Onuki et al and Papagan et al do not disclose a metadata description unit for integrating the scene section information metadata and the scene structure information metadata and generating metadata describing contents and a structure of the multimedia content in accordance with a predetermined format

On the other hand Hanamoto teaches a metadata description unit for integrating the scene section information metadata and the scene structure information metadata and generating metadata describing contents and a structure of the multimedia content in accordance with a predetermined format (figs 12A and B, para 0116 – 0120)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a metadata description unit for integrating the scene section information metadata and the scene structure information metadata and generating

metadata describing contents and a structure of the multimedia content in accordance with a predetermined format as taught by Hanamoto in the combined system of Yamamoto, Onuki et al and Papagan et al in order to provide a system and methodology for linking media content for presentation to a user.

Regarding **claim 2**, Yamamoto discloses a metadata editing apparatus, further comprising:

a characteristic extraction unit for extracting visual characteristic amounts of each scene of the multimedia content based on the scene section information metadata sent from the scene division unit and generating characteristic description metadata (para 0139)

However Yamamoto, Onuki et al and Papagan et al do not disclose wherein the metadata description unit integrates the scene section information metadata, the scene structure information metadata, and the characteristic description metadata and generates the metadata describing the contents and the structure of the multimedia content in accordance with the predetermined format.

On the other hand Hanamoto teaches wherein the metadata description unit integrates the scene section information metadata, the scene structure information metadata, and the characteristic description metadata and generates the metadata describing the contents and the structure of the multimedia content in accordance with the predetermined format (para 0029)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate wherein the metadata description unit integrates the scene

section information metadata, the scene structure information metadata, and the characteristic description metadata and generates the metadata describing the contents and the structure of the multimedia content in accordance with the predetermined format as taught by Hanamoto in the combined system of Yamamoto, Onuki et al and Papagan et al in order to provide a system and methodology for linking media content for presentation to a user.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Y. Hasan whose telephone number is 571-270-1082. The examiner can normally be reached on 9/8/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Y. H./  
12/15/2009

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621